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U.S. DEPARTMENT OF THE INTERIOR
OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT
ENVIRONMENTAL ASSESSMENT

for

Amending Rules in 30 CFR Parts 816 and 817
Temporary Cessation of Operations
RDIM Serial No. 093 - Proposed Rule

A. Description of the Proposed Action

The Office of Surface Mining Reclamation and Enforcement (OSM) is proposing to amend its regulations relating to the temporary cessation of surface coal mining and reclamation activities at 30 CFR Parts 816 and 817. The proposed rule would change the requirement that an operator notify the regulatory authority of the intent to cease mining operations temporarily to a requirement that an operator submit an application to the regulatory authority prior to cessation of mining for 30 days or more. The operator would be required to provide more detailed information, especially related to the condition of the mine site at the time operations cease. Prior to approval, the regulatory authority would make a site inspection to evaluate the information submitted in the application. Based on the application and inspection, the regulatory authority would make certain findings prior to the temporary cessation approval. Each operation in temporary cessation status would be reviewed as part of the midterm permit review as well as the permit review process.

B. Purpose and Need for the Proposed Action

OSM is proposing this rule in order to prevent potential abuse of the provision allowing for temporary cessation of mining operations. The purpose of this rulemaking is to ensure that temporary cessation does not extend longer than necessary and thereby delay reclamation of mined lands.

C. Alternatives Considered

In addition to the proposed action, the No Action alternative was considered. Under the No Action Alternative (the existing rules), operators would continue to simply notify the regulatory authority of their intentions to cease surface coal mining operations temporarily. The regulatory authority would not be required to approve such action in accordance with any specified standards, and no pre-approval site visit would be required.

D. Affected Environment

The proposed action would affect all coal mining nationwide. The affected environment is described on pages III-1 and III-2 in OSM-EIS-1 SUPP (January 1983).

E. Environmental Impacts of the Proposed Action and Alternative
No Action Alternative

Under the existing regulations, an operator may temporarily cease operations for an indefinite period merely by notifying the regulatory authority of the intention to do so. This could result in both short-term and long-term impacts since a mine might be shut down in an unstable or hazardous condition. Also, fewer inspections are required to be conducted by the regulatory authority at mine sites in temporary cessation.

As a result, environmental safeguards may break down and damage occur. Erosion on the site and sedimentation of nearby streams may occur, for example, or a siltation structure may be inadequately maintained to protect water quality. Access to the site by casual visitors (such as children or campers) may not be adequately restricted, resulting in accidents and injuries.

The existing regulations do not require submittal of an application prior to temporary cessation of operations. Consequently, the regulatory authority is not required to visit the site prior to cessation to evaluate the accuracy of information in an application, effectiveness of safeguards to public hazards, and current compliance with all regulatory requirements. The chance of off-site environmental impacts is more likely if the operations, when halted, were not in complete compliance with the permit requirements.

Reclamation of any portion of the permit area not included in the area on which operations will temporarily cease continues on the schedule approved in the permit. Reclamation of the area on which operations will cease temporarily, however, is deferred until operations are resumed and completed. As a result, the environmental effects of mining are borne by the surface owner and the public for a longer period than was originally planned or anticipated.

Since there is no limit to how long an operation can remain in temporary cessation, it is possible that the temporary cessation could extend several years, or to the point that mining operations are never resumed. If the reclamation bond is insufficient (or becomes insufficient due to inflation of costs during the cessation), the area may not be properly or completely reclaimed to its post-mining land use. This could then produce both environmental and monetary losses to the public and to the surface owner.

Proposed Action

The proposed rule addresses each of the impacts described above. Permittees would be required to submit an application for the regulatory authority's approval before they would be allowed to cease mining and reclamation operations for more than 30 days. The equipment necessary to resume mining would be retained on site until the regulatory authority approves the application. During temporary cessation the permittee would continue to do monitoring and maintenance. There would be quarterly inspections, with the issuance of enforcement actions, as needed.

All permittees of operations in temporary cessation on the effective date of this rule would have 60 days to apply for approval to continue in temporary cessation status. The application would address the following topics: 1) reasons for the need for cessation of operations, 2) methods taken to secure the public safety from hazards on the mine site, 3) description of the monitoring to be carried out, 4) description of how public access to the mine site will be restricted, 5) list of the mining equipment to remain on site until application approval, 6) a map of the coal resource still to be mined under the approved permit, to demonstrate that sufficient coal reserves remain to justify resumption of operations, 7) a list of any outstanding violations and their status, and 8) an updated calculation of the cost to reclaim the remaining disturbed area.

The regulatory authority would be required to visit the site of the proposed temporary cessation to evaluate the accuracy of the application, and the effectiveness of security against public hazard. The inspection would verify that the operation is in compliance with the approved permit, and that any outstanding violations have been abated.

After reviewing the application, the regulatory authority would make the following findings: the operator has demonstrated that there is a valid need to temporarily cease mining, there is sufficient coal remaining in the permit area to justify a later resumption of coal mining, the area has been made secure against public hazard, reclamation is current, the performance bond has been reevaluated, and there are no unabated violations.

Each mining operation in temporary cessation status would be periodically reviewed by the regulatory authority. This would occur at the time of midterm permit review and at the time of permit renewal.

An operation in temporary cessation status would have that status terminated for the following reasons: if the operator failed to submit an application under the terms of these rules, if the regulatory authority disapproved continuation of temporary cessation status at midterm review or permit renewal, or if the operator failed to apply for a permit renewal. Thirty days after the termination of temporary cessation status, the operator would be required to resume active mining or begin final reclamation of the entire permit area.

The effect of the proposed rule would be to provide greater protection to the natural environment than do the existing regulations. Operators would no longer be able to cease operations by simply submitting a notice of intention to do so. The requirement to submit an application including a description of monitoring to be carried out, resolution of outstanding violations, and an updated bond calculation, supplemented by an on-site inspection and findings of compliance to be made by the regulatory authority would all tend to increase protection of the natural environment.

F. Persons and Agencies Consulted

No agencies or individuals were consulted in the preparation of this environmental assessment other than the author of the proposed rule.

G. Preparer

This environmental assessment was prepared by Shirley Lindsay, Branch of Environmental and Economic Analysis, OSM, Washington, DC.

H. Reference Cited

1. Proposed Revisions to the Permanent Program Regulations Implementing Section 501(b) of the Surface Mining Control and Reclamation Act of 1977, Final Environmental Statement OSM-EIS-1: Supplement, January 1983.